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FILED
DISTRICT COURT OF GUAM

JAN 19 2005

MARY L.M. MORAN
CLERK OF COURT

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF GUAM**

JULIE BABAUTA SANTOS, et. al.,

Petitioners,

vs.

FELIX P. CAMACHO, etc., et. al.,

Respondents.

Civil Case No. 04-00006

**LOURDES M. PEREZ OBJECTION TO
THE PEOPLE'S SUBPOENA
DUCES TECUM**

GENERAL OBJECTIONS

Ms. Perez objects to the subpoena *duces tecum* served by the Attorney General on January 5, 2005. It seeks irrelevant documents and is overbroad, unduly burdensome, harassing, and redundant. Leaving aside the absence of any need for these documents in the first place, the Attorney General already has them because Ms. Perez already produced all responsive non-privileged documents to the Attorney General pursuant to a Sunshine Act request that the Attorney General served upon Ms. Perez on January 4, 2005.

Moreover, it is improper to use a subpoena *duces tecum* in lieu of a document request, when the recipient of the subpoena is a party, such as Ms. Perez. *Wirtz v. Local Union 169*, 37 F.R.D. 349, 351 (D. Nev. 1965).

1 [F]ederal discovery processes are not intended to require such
2 wholesale disclosure of government memoranda, reports,
3 communications and statements as is contemplated under the
4 terms of this subpoena. A subpoena *duces tecum*, under Rule
5 45, is not intended as a substitute for a motion to produce
under Rule 34, where, as in this case, the subpoena requires
production of documents under the control of plaintiff, as
distinguished from documents in the possession and control of
an independent witness.

6 *Id.*

7 Ms. Perez further objects that the subpoena calls for documents that are protected by
8 the attorney-client privilege, by executive privilege, are not in his possession, and/or
9 could be obtained from others. Ms. Perez also objects that the subpoena calls for
documents that are equally available to the Attorney General.

10 Subject to the foregoing objections, and incorporating each General Objection into the
11 foregoing responses, Ms. Perez makes the following specific objections:

12 DOCUMENT DEMANDS

13 Document Demand No. 1

14 All contracts, purchase orders, memoranda, executive orders, correspondence, notices
15 and other documents evidencing, relating to and bearing on the hiring of Rawlen MT
16 Mantanona, Esq. and/or the Mantanona Law Office to provide legal services to you in
17 this court case.

18 Objections

19 Ms. Perez objects that this demand is irrelevant and redundant of the Sunshine Act
20 request made by the Attorney General to which Ms. Perez already has responded fully.
21 This request also seeks privileged communications, documents that are available from
22 sources other than Ms. Perez, and documents that are within the Attorney General's
23 possession.

1 Notwithstanding the specific and general objections stated above, all non-privileged
2 documents not already in the possession of the Attorney General's office will be
3 produced at the January 25, 2004 hearing pursuant to the Court's Order of January 14,
4 2005 moving the hearing date.

5 **Document Demand No. 2**

6 Any and all correspondence in 2004 and 2005 from you and/or your representatives to
7 the Attorney General or any Assistant Attorney General regarding this case and any
8 other EITC court cases.

9 **Objections**

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11 Ms. Perez objects that this demand is irrelevant and redundant of the Sunshine Act
12 request made by the Attorney General to which Ms. Perez already has responded fully.
13 This request also seeks privileged communications, documents that are available from
14 sources other than Ms. Perez, and documents that are within the Attorney General's
15 possession, such as "all correspondence in 2004 and 2005 from you and/or your
16 representatives to the Attorney General or any Assistant Attorney General regarding
17 this case and any other EITC court cases."

18 Notwithstanding the specific and general objections stated above, all non-privileged
19 documents not already in the possession of the Attorney General's office will be
20 produced at the January 25, 2004 hearing pursuant to the Court's Order of January 14,
21 2005 moving the hearing date.

22 **Document Demand No. 3**

23 "All documents, memoranda, e-mails and other documents evidencing, bearing on and
24 relating to any payments of Earned Income Tax Credits by the government of Guam to
25 anyone during 2004."

1 **Objections**

2 Ms. Perez objects that this demand is irrelevant and redundant of the Sunshine Act
3 request made by the Attorney General to which Ms. Perez already has responded fully.
4 This request also seeks privileged communications and documents that are available
5 from sources other than Ms. Perez. Ms. Perez further objects that pursuant to 26
6 U.S.C. § 7213(a), federal and state official cannot disclose the tax records of any
7 taxpayer.

8 Notwithstanding the specific and general objections stated above, all non-privileged
9 documents and non-confidential records not already in the possession of the Attorney
10 General's office will be produced at the January 25, 2004 hearing pursuant to the
11 Court's Order of January 14, 2005 moving the hearing date.

12
13 Dated: January 19, 2005

14 MANTANONA LAW OFFICE
15 Attorney for **Lourdes M. Perez** and
16 **Artemio B. Ilagan**

17 By: 

18 RAWLEN M T MANTANONA
19 A duly licensed employee.
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